IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FIFTEENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 23226 of 2004

Between:

S.B.Ahmed S/o.S.M.D.Usman
Ananthapur Dist.

..... PETITIONER

AND

1 The Depot Manager, APSRTC
Anantapur Depot, Anantapur Dist.
2 The Deputy Chief Traffic Manager, APSRTC
Anantapur Region, Anantapur

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of writ of Mandamus or any other appropriate writ, declaring the proceedings No.02/95(1)/96 ATP dy;10-4-1996 of the 1st respondent and proceedings No.St/19(314)/96 Dy.CTMA dt 3-12-1998 of the 2nd respondent as illegal, arbitrary, inviolation of principles of natural justice and inviolation of Art, 14 and 21 of the Constitution of India and consequentially direct the respondents to add two annual increments to the pay of the petitioner and pass such other or further order.

Counsel for the Petitioner:S.SURENDRA KUMAR

Counsel for the Respondent Nos.1 & 2: MR.P.VINAYAKA SWAMY

The Court at the stage of admission, made the following :

ORDER:

Challenging the punishment imposed on the writ petitioner deferring two annual increments with cumulative effect, the present writ petition is filed.

The learned counsel appearing for the petitioner contended that without conducting any departmental enquiry, imposing major penalty is not sustainable and therefore prays to modify the major penalty into minor penalty.

On the other hand the learned Standing Counsel appearing for the respondents contended that considering the material available on record, the disciplinary authority passed the impugned proceedings and the same does not suffer from any serious legal infirmities so as to call for any interference by this Court.

It is not in dispute that certain irregularities have been committed by the writ petitioner with regard to the non-observance of the rule “issue and start” and collection of the fare and issue of tickets to the passengers. Accordingly, a charge memo has been issued to the petitioner calling upon him to give his explanation. The petitioner submitted his explanation. Thereafter, the impugned proceedings have been passed. Admittedly, imposing penalty of stoppage of two increments with

cumulative effect is a major penalty which cannot be imposed unless preceded by a regular departmental enquiry. Admittedly, no departmental enquiry is conducted. Appeal filed by the petitioner before the appellate authority is also dismissed. Since the incident is alleged to have taken place in the year 1996 and as the prayer of the petitioner is that the punishment may be modified to that of minor penalty, it is not desirable to remit the case to the appellate authority.

Having regard to the facts and circumstances into consideration, the major penalty can be converted into a minor penalty. Accordingly stoppage of two increments "with cumulative effect" is modified to that of stoppage of two increments **"without cumulative effect"**.

The writ petition is accordingly disposed of. No order as to costs.

_____

15.12.2004

bsv

To

1 The Depot Manager, APSRTC
Anantapur Depot, Anantapur Dist.
2 The Deputy Chief Traffic Manager APSRTC
Anantapur Region, Anantapur Dist.

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